

AN ACT

RELATING TO MATTERS UNDER THE PURVIEW OF THE ALCOHOLIC BEVERAGES DIVISION OF THE DEPARTMENT OF COMMERCE, INCLUDING ALCOHOLIC BEVERAGE PERMITS AND LICENSES AND ADMINISTRATIVE PROVISIONS, MODIFYING FEES, AND INCLUDING EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 123.3, Code 2011, is amended by adding the following new subsections:

NEW SUBSECTION. 014A. "*Grocery store*" means any retail establishment, the business of which consists of the sale of food, food products, or beverages for consumption off the premises.

NEW SUBSECTION. 022A. "*Micro-distilled spirits*" means distilled spirits fermented, distilled, or, for a period of two years, barrel matured on the licensed premises of the micro-distillery where fermented, distilled, or matured. "*Micro-distilled spirits*" also includes blended or mixed spirits comprised solely of spirits fermented, distilled, or, for a period of two years, barrel matured at a micro-distillery.

NEW SUBSECTION. 022B. "*Micro-distillery*" means a business with an operational still which, combining all production facilities of the business, produces and manufactures less than fifty thousand proof gallons of distilled spirits on an annual basis.

NEW SUBSECTION. 26A. "*Pharmacy*" means a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons,

dentists, or veterinarians are compounded and sold by a registered pharmacist.

NEW SUBSECTION. 32A. "School" means a public or private school or that portion of a public or private school which provides facilities for teaching any grade from kindergarten through grade twelve.

Sec. 2. Section 123.3, subsection 14A, Code 2011, is amended to read as follows:

14A. "*High alcoholic content beer*" means beer which contains more than five percent of alcohol by weight, but not more than twelve percent of alcohol by weight, that is made by the fermentation of an infusion in potable water of barley, malt, and hops, with or without unmalted grains or decorticated and degerminated grains. Not more than one and five-tenths percent of the volume of a "high alcoholic content beer" may consist of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol. The added flavors and other nonbeverage ingredients may not include added caffeine or other added stimulants including but not limited to guarana, ginseng, and taurine.

Sec. 3. Section 123.3, subsection 22A, Code 2011, is amended to read as follows:

22A. "*Native wine*" means wine manufactured ~~in this state~~ pursuant to section 123.56 by a manufacturer of native wine.

Sec. 4. Section 123.6, Code 2011, is amended to read as follows:

**123.6 Appointment — term — expenses — compensation.**

Appointments shall be for five-year staggered terms beginning and ending as provided by section 69.19 and shall be made by the governor, subject to confirmation by the senate. Members of the commission shall be chosen on the basis of managerial ability and experience as business executives. ~~One member~~ Not more than two members of the commission may be the holder of or have an interest in a permit or license to manufacture alcoholic liquor, wine, or beer or to sell alcoholic liquor, wine, or beer at wholesale or retail. A member may be reappointed for one additional term. Each member appointed is entitled to receive reimbursement of actual expenses incurred while attending meetings. Each member of the commission may also be eligible to receive compensation as provided in section 7E.6.

Sec. 5. Section 123.9, Code 2011, is amended to read as follows:

**123.9 Commission meetings.**

The commission shall meet on or before July 1 of each year for the purpose of selecting one of its members as chairperson, ~~which member shall serve in such capacity~~ for the succeeding year. The commission shall otherwise meet quarterly or at the call of the chairperson or administrator or, when any three members file ~~with the chairperson~~ a written request for a meeting. Written notice of the time and place of each meeting shall be given to each member of the commission. ~~All commission meetings shall be held within the state.~~ A majority of the commission members shall constitute a quorum.

Sec. 6. Section 123.30, subsection 3, paragraph e, subparagraph (1), Code 2011, is amended to read as follows:

(1) A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and high alcoholic content beer from a class "AA" beer permittee only and to sell the alcoholic liquor and high alcoholic content beer to patrons for consumption off the licensed premises and to other liquor control licensees. ~~A class "E" license shall not be issued to premises at which gasoline is sold.~~ A holder of a class "E" liquor control license may hold other retail liquor control licenses or retail wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance. However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license.

Sec. 7. Section 123.31, unnumbered paragraph 1, Code 2011, is amended to read as follows:

~~Except as otherwise provided in section 123.35, verified~~ Verified applications for the original issuance or the renewal of liquor control licenses shall be filed at the time and in the number of copies as the administrator shall prescribe, on forms prescribed by the administrator, and shall set forth under oath the following information:

Sec. 8. Section 123.36, subsection 8, Code 2011, is amended to read as follows:

8. a. Class "E" liquor control license, a sum determined as follows:

(1) For licensed premises at which gasoline is not sold, a sum of not less than seven hundred and fifty dollars, and not

more than seven thousand five hundred dollars as determined on a sliding scale as established by the division taking into account the factors of square footage of the licensed premises, the location of the licensed premises, and the population of the area of the location of the licensed premises.

(2) For licensed premises at which gasoline is sold, a sum equal to the following:

(a) For premises located within the corporate limits of a city with a population of less than one thousand five hundred, three thousand five hundred dollars.

(b) For premises located within the corporate limits of a city with a population of at least one thousand five hundred but less than ten thousand, five thousand dollars.

(c) For premises located within the corporate limits of a city with a population of ten thousand population or more, the greater of five thousand dollars or the amount that would be established pursuant to subparagraph (1) if gasoline were not sold at the premises.

(d) For premises located outside the corporate limits of any city, a sum equal to that charged in the incorporated city located nearest the premises to be licensed. If there is doubt as to which of two or more differing corporate limits is the nearest, the license fee which is the largest shall prevail. However, if the premises is located in an unincorporated town, for purposes of this subparagraph, the unincorporated town shall be treated as if it is a city.

b. Notwithstanding subsection 5, the holder of a class "E" liquor control license may sell alcoholic liquor for consumption off the licensed premises on Sunday subject to section 123.49, subsection 2, paragraph "b".

Sec. 9. Section 123.43A, subsection 1, Code 2011, is amended by striking the subsection.

Sec. 10. Section 123.46, subsection 1, paragraph d, Code 2011, is amended by striking the paragraph.

Sec. 11. Section 123.56, Code 2011, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A manufacturer may use the space and equipment of another manufacturer for the purpose of manufacturing native wine, provided that such an alternating proprietorship arrangement is approved by the alcohol and tobacco tax and trade bureau of the United States department of the treasury. A separate class "A" wine permit shall be issued to each manufacturer, and each manufacturer shall be

subject to the provisions of this chapter and the rules of the division. Notwithstanding subsection 5, not more than one class "C" native wine permit shall be issued to a premises with alternating proprietorships.

Sec. 12. Section 123.129, subsection 1, Code 2011, is amended by striking the subsection.

Sec. 13. Section 123.134, subsection 5, Code 2011, is amended by striking the subsection.

Sec. 14. Section 123.141, Code 2011, is amended to read as follows:

**123.141 Keeping liquor where beer is sold.**

No alcoholic liquor for beverage purposes shall be used, or kept for any purpose in the place of business of class "B" permittees, or on the premises of such class "B" permittees, at any time. A violation of any provision of this section shall be grounds for suspension or revocation of the permit pursuant to section 123.50, subsection 3. This section shall not apply in any manner or in any way, ~~to any railway car of any dining car company, sleeping car company, railroad company or railway company, having a special class "B" permit;~~ to the premises of any hotel or motel for which a class "B" permit has been issued, other than that part of such premises regularly used by the hotel or motel for the principal purpose of selling beer or food to the general public; or to drug stores regularly and continuously employing a registered pharmacist, from having alcohol in stock for medicinal and compounding purposes.

Sec. 15. Section 123.142, unnumbered paragraph 1, Code 2011, is amended to read as follows:

It is unlawful for the holder of a class "B" or class "C" permit issued under this chapter to sell beer, except beer brewed on the premises covered by a special class "A" permit or beer purchased from a person holding a class "A" permit issued in accordance with this chapter, and on which the tax provided in section 123.136 has been paid. However, this section does not apply to ~~the holders of special class "B" permits issued under section 123.133 for sales in cars engaged in interstate commerce nor to~~ class "D" liquor control licensees as provided in this chapter.

Sec. 16. REPEAL. Sections 123.35, 123.133, 123.153, 123.154, 123.155, 123.156, 123.157, 123.158, 123.159, 123.160, 123.161, and 123.162, Code 2011, are repealed.

Sec. 17. EFFECTIVE UPON ENACTMENT. The section of this Act amending section 123.3, subsection 14A, regarding the

definition of high alcoholic content beer, being deemed of immediate importance, takes effect upon enactment.

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KRAIG PAULSEN  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 617, Eighty-fourth General Assembly.

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W. CHARLES SMITHSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2011

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TERRY E. BRANSTAD  
Governor